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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

FILED
U.S. DISTRICT COURT
NORTHERN DIST. OF TX
FT. WORTH DIVISION

2015 MAR 24 PM 3:29

CLERK OF COURT

HENRY LEE SIMS, JR., *et al*

Plaintiffs,

VS.

KIA MOTORS AMERICA, INC. and
KIA MOTORS CORPORATION,

Defendants.

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CASE NO. 4:14-cv-00045-A

**DEFENDANTS' MOTION TO COMPEL PLAINTIFFS' PRIMARY LIABILITY
EXPERT'S DEPOSITION BY APRIL 15, 2015, AND REQUEST FOR
EXPEDITED BRIEFING SCHEDULE**

TO THE HONORABLE JUDGE OF THE COURT:

COME NOW Defendants Kia Motors America, Inc. (KMA) and Kia Motors Corporation (KMC) (hereinafter collectively referred to as "Kia") and file this Motion to Compel Plaintiffs' Primary Liability Expert's Deposition by April 15, 2015, and Request for Expedited Briefing Schedule. In support thereof, Kia respectfully shows the Court as follows:

1. Plaintiffs' principal liability expert, Jerry Wallingford, is delaying the discovery process by not making himself timely available for deposition.

2. While Plaintiffs have agreed to present Mr. Wallingford for deposition, the sole provided date from Mr. Wallingford (May 8, 2015) is on the eve of the discovery deadline (May 11, 2015).

3. This date is problematic for multiple reasons: (1) Kia has been requesting a date for this deposition since January; (2) it represents a shift in the natural order of burden of proof where the parties with the burden, Plaintiffs, present their liability

theories and then Kia presents its defenses; (3) the late date allows no time for any response necessitated by the testimony obtained; and (4) the date is on the exact date which was already proposed for one of the defense experts. Kia's arguments are more fully set forth in the corresponding Brief in Support.

4. Kia seeks to avoid a continuance of the trial date and other related deadlines. Thus, Kia seeks an order compelling the deposition of Mr. Wallingford to occur by April 15, 2015, and to impose an expedited briefing schedule for this Motion due to upcoming deadlines.

5. The discovery deadline of May 11, 2015, is rapidly approaching. If Plaintiffs are permitted the full twenty-one (21) days to respond to this Motion, the dispute will not be resolved in time for effective relief if the Motion is granted. Thus, Kia requests an expedited briefing schedule, to shorten Plaintiffs' Response time to five (5) days and Kia's Reply time is shortened to three (3) days from the date of Plaintiffs' filed Response, if any.

Respectfully submitted,



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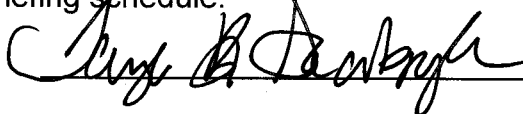
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**COUNSEL FOR KIA MOTORS AMERICA,
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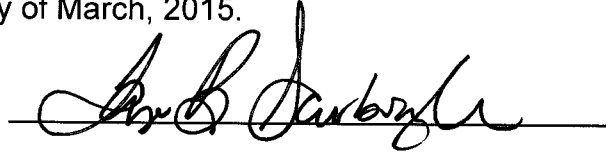
CERTIFICATE OF CONFERENCE

Conferences were held on March 9, 13, and 17, 18, 19, 2015, between Kia's counsel, Kurt Kern and Cary Slobin, and Plaintiffs' counsel, Marty McLean to discuss the necessity of an earlier date for Mr. Wallingford. Plaintiffs will not agree to produce Mr. Wallingford before May 8, 2015. Kia's preference is to not further disturb the Court-ordered case management deadlines and proceed with discovery in a timely manner. On March 23, 2015, Kia's counsel requested a meet and confer session on the topic of an expedited briefing schedule. A conference again occurred on March 24, 2015, between Cary Slobin and Plaintiffs' counsel Marty McLean, who indicated Plaintiffs are opposed to the proposed expedited briefing schedule.



CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been forwarded to all known counsel of record in this cause in accordance with the Federal Rules of Civil Procedure on this 24th day of March, 2015.

A handwritten signature in black ink, appearing to read "Andrew B. Darby", is written over a horizontal line.